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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,871	10/31/2003	James Daniel Baldwin	81305-4000	9023
28765	7590	01/26/2006		
WINSTON & STRAWN LLP 1700 K STREET, N.W. WASHINGTON, DC 20006			EXAMINER LUM VANNUCCI, LEE SIN YEE	
			ART UNIT 3611	PAPER NUMBER
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/697,871

**Applicant(s)**

BALDWIN ET AL.

**Examiner**

Lee Lum

**Art Unit**

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8 and 10-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) all is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. An Amendment was filed 11/10/05 in which Claims 33-36 were also added.
2. Claim 23 is objected to because "upper framework" should be preceded by "an",
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 7, 8, 10-13, 15-19, 21-25, 29 and 31-36** are rejected under 35 U.S.C. 102(b) as being anticipated by Nakagawa et al 6176338.

Re **Claims 1-5, 7, 8, 10-13, 15-17, 29, 31, 33 and 34**, Nakagawa discloses an electric vehicle/scooter frame, comprising

First frame portion forming a first framework, comprising a plurality of welded struts including

First strut (unidentified in fig 11; upper horiz member connected to second strut 2e),

Second strut 2e disposed lower than the first strut,

Third struts 2c offset horizontally from the first and second struts,

The three struts being disposed around, and defining a portion of an unidentified cavity, as depicted in fig 2, and define lateral and longitudinal sides of the cavity, and,

Including concave bracket 49 for supporting battery tray 64,

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The frame portion comprising skin members 18 and 19 for closing at least 75%/portions of openings (unidentified) defined between the struts, the skin members also comprising the battery tray inside the cavity for batteries Ba,

Second frame portion separably associated with the first framework, as depicted in fig 6, comprising strut 51, and skin 18, that substantially increases the stiffness of the frame,

Wherein the first framework, and second frame portion, support a rider, and cooperatively define, and substantially enclose, the cavity between the frame portions, and,

The first frame portion is a lower frame portion that includes headtube 52, and is disposed beneath the second frame portion (i.e., at least frame members 2c),

The headtube receiving steering tube 53 mounted to steerable wheel 3,

At least struts 51 and 52 being welded together,

Rear group of struts including the unidentified upper horiz element, and strut 2e, formed as a unit to define an open rear wall,

The frame portions permitting removal of the battery tray when the portions are separated, and,

Substantially enclose the top, front, and lateral sides of the cavity, and, Stepthrough, as provided in c4, ln 8-11.

**Re Claim 18**, the reference further discloses

The first frame portion as having a longitudinal torsional stiffness (inherent), and the combination of the two portions as having an assembled stiffness (inherent) that is at least a factor of 1.2 more than that of the first frame portion, *as broadly and reasonably interpreted.*

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Re **Claims 19, 21 and 22**, the reference further comprises  
Seat 26,  
Rear wheel 7,  
Suspension system, including front suspension arm 54, and swingarm/pivotable motor unit 6, connecting the wheels to the vehicle frame.

Re **Claims 23, 24 and 32**, the reference discloses the elements as provided above, and further includes

Lower frame portion forming lower framework with

first strut group including struts 2c and 2e, disposed to one side, and defining the cavity,

Second strut group including struts 51 and 52, disposed to an opposite side of the cavity, and,

(Portion of) Skin 18,

in which each group comprises a longitudinal strut;

struts 2c for the second group,

strut 51 for the first group (as viewed from the side),

and additional struts including struts 2a (fig 1), and 42b (fig 9), connecting the strut groups, and being disposed on additional sides of the cavity,

Upper frame portion including a portion of skin 18 associable with the lower framework for increasing the stiffness of an upper framework that includes component 52,

Inherent torsional stiffness, and,

The cavity as having a volume of at least 1000 cubic in (fig 1).

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Re **Claims 35 and 36**, the reference further discloses

Fourth strut 2a disposed below the third strut, and offset horiz with respect to the first and second struts,

Such that the first and second struts are disposed to a first side (rear) of the cavity), and the third and fourth struts to a second side (front) of the cavity, and,

Struts 2c and 62 connecting the first and second struts to the third and fourth struts, and being disposed to the lateral sides of the cavity, and bottom, respectively.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claims 14 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Stevenson et al 6047786, and Ono 5207288.

Nakagawa does not disclose the struts as including aluminum/alloy, while Stevenson shows this material in c6, ln 7-11. While it is clear that the frame would include a material that will accommodate the vehicle and particular application, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include these materials, as shown in Stevenson, as types of materials with the requisite structural strength and durability.

Nakagawa does not disclose the second frame portion as comprising a skin member including composite, fiber-reinforced material, while Ono shows this well-known material in c1, ln 65-67. While it is clear that these components would comprise a material that would be appropriate for the vehicle and application, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this particular material, as shown in Ono, as one well-known type which has the requisite strength and durability for use in this vehicle.

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**B. Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Ono.

Nakagawa discloses the elements as provided above, but does not disclose three wheels. Ono shows this configuration in c1, ln 8. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this alternate embodiment, as shown in Ono, to provide increased balance for the vehicle and rider, and to increase applicability. It is clear that the invention may be incorporated into an appropriate vehicle with any number of wheels.

**C. Claims 26-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Sugioka et al 5477936.

Nakagawa discloses the elements as provided above, including the width of the cavity as at least about 6 in. It does not disclose the height as at least about 15 in, a length of 25 in, nor a volume of about 2500 cubic in.

Sugioka shows these possible dimensions in at least fig 1. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include these dimensions to accommodate various battery sizes, thus increase applicability. However, it is clear that the dimensions of the cavity are immaterial to the proper operation of the power source within the vehicle, and is clearly application-dependent.

5. **RESPONSE TO REMARKS:** New rejections are necessitated by amendments.

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


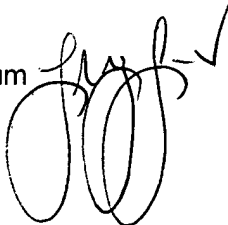
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Communication with USPTO/Examiner

Any inquiry concerning this communication should be directed to Ms. Lum at 571 272 6649, M-F, 9-5. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 571 272 6651. Our fax number is 571 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum  
Examiner  
1/5/06



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